

# EXHIBIT A



May 11, 2023

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**Re: *In re: Valsartan, Losartan, and Irbesartan Products Liability Litigation, No. 1:19-md-02875-RBK-SAK (D.N.J.)***

Dear Counsel:

On behalf of the manufacturer defendants, we write to request a meet-and-confer regarding Plaintiffs' Motion for Approval of Form and Manner of Class Notice [Dkt. 2375] and the accompanying exhibits (collectively, the "Notice Plan"). Because some of these matters are time-sensitive and defendants have a short deadline to respond to Plaintiffs' Notice Plan, we would like to meet-and-confer this week if at all possible. Representatives of the manufacturer defendants are available on Friday, May 12, from 12:00 pm to 6:00 pm ET.

The manufacturer defendants request the following materials from Plaintiffs by **Wednesday, May 17, 2023**, and are prepared to meet-and-confer to the extent there is any disagreement as to any of these topics:

**1. Mailing List of TPPs:** According to the Declaration of Steven Weisbrot, Esq. ("Weisbrot Dec."), the Third-Party Payor ("TPP") Class Direct Notice Plan contemplates "direct notice via mail to approximately 28,500 mailing addresses on Angeion's proprietary third-party payor list," which "consists of drug stores, pharmacies, insurance companies, and health, welfare, and pension funds[.]" (Weisbrot Dec. ¶ 16). We note that drug stores and pharmacies are not members of the TPP Class. Please produce the mailing list in Excel format, which the manufacturer defendants agree to treat as confidential pursuant to the Protective Order.

**2. Discovery Requests and Email Addresses for TPP Class Members:** Mr. Weisbrot further states that Angeion "will also provide direct notice via mail to any third-party payors identified by Defendants pursuant to responses to what I understand to be discovery requests by class counsel, and also provide e-mail notice to all third-party payors for whom e-mail addresses are available." (Weisbrot Dec. ¶ 16). We are not aware of any outstanding discovery requests for the identification of TPPs. Please clarify what discovery requests are referenced and

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when responses are anticipated. Please also provide in Excel format the list of email addresses to receive notice under this plan.

**3. Programmatic Display Advertising:** Mr. Weisbrot proposes to use Programmatic Display Advertising to reach members of the Consumer Economic Loss Class and Medical Monitoring Class. (Weisbrot Dec. ¶ 23). He states that Angeion’s media team “analyzed data from 2022 comScore Multi-Platform/MRI Simmons USA Fusion to profile the Consumer Economic Loss Class and Medical Monitoring Class and arrive at an appropriate Target Audience based on criteria pertinent to this litigation. Specifically, the following syndicated research definition was used to profile potential those class members: ‘Hypertension/High Blood Pressure used a prescription remedy.’” (*Id.* ¶ 24). Mr. Weisbrot states that the Target Audience is “based on objective syndicated data” and uses “objective syndicated data tools” to “quantify net reach.” (*Id.* ¶ 26). These descriptions do not provide sufficient information to evaluate the analysis performed or the data utilized. Please provide a detailed description of the analysis performed, the specific objective syndicated data and objective syndicated data tools used, and the criteria deemed pertinent to this litigation. Please produce all underlying data utilized in the analysis. Please identify the proposed contents of the advertising if different from the short-form or long-form notices.

**4. Digital Tactics:** Mr. Weisbrot provides broad subject matter descriptions of five digital tactics proposed to “help ensure delivery to the most appropriate users.” (Weisbrot Dec. ¶ 29). The one- and two-sentence descriptions do not provide sufficient detail to evaluate the sufficiency of these tactics. Please provide detailed descriptions of the tactics to be employed and the platforms, applications, or vendors to be used to execute the tactics. Please identify the proposed contents of the advertising if different from the short-form or long-form notices.

**5. Social Media:** Mr. Weisbrot proposes to use an “interest-based approach” to reach users on Facebook and Instagram, and references “look-a-like modeling” as the tactic to serve ads. (Weisbrot Dec. ¶¶ 31-32). Again, the short description does not provide sufficient detail to evaluate the sufficiency of this approach or this tactic. Please provide a detailed description of the approach and tactics to be employed and the platforms, applications, or vendors used to execute the approach and tactics. Please identify the proposed contents of the advertising if different from the short-form or long-form notices.

**6. Paid Search Campaign:** Mr. Weisbrot proposes to use a paid search campaign using “search terms” to deliver “paid search ads” to class members “actively searching for information about the litigation.” (Weisbrot Dec. ¶ 34). Please identify the search terms to be used and the proposed contents of the “paid search ads” if different from the short-form or long-form notices.

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**7. Basis for Reach and Frequency Calculations:** Mr. Weisbrot states that the Consumer Economic Loss Class and Medical Monitoring Class media campaigns are designed “to deliver an approximate 80.12% reach with an average frequency of 3.04 times.” (Weisbrot Dec. ¶¶ 13-14, 39-40). Defendants request the details of how these calculations were made and production of all underlying data, literature, or materials relied upon to make these calculations.

**8. Performance Metrics and Reports:** The Notice Plan refers to various demand management platforms (“DMPs”), “conversion pixels,” and other tools that are to be used to enable Angeion to learn more about the online audiences being reached, but does not provide a mechanism for Angeion to report to the parties or the Court on the progress of its Notice Plan or the success of its tactics in reaching the proposed target. Please indicate whether Plaintiffs’ Notice Plan contemplates interim or final reports to the Court on the success of its Programmatic Display Advertising campaign, what metrics will be used to measure performance and success, and the anticipated cadence and timing of such reporting of performance metrics.

**9. Dedicated Website and Toll-Free Telephone Support:** The Notice Plan incorporates a dedicated website and toll-free telephone support, including a “dedicated email address,” interactive forms for entry of data on the website, and interactive voice response. Please indicate whether emails to the dedicated email address would be delivered to Angeion or to Plaintiffs’ counsel. Please provide details of the forms to be provided on the dedicated website, the specific data fields available for data entry by users, and the plan to report the user interactions and data entered to counsel for Plaintiffs and Defendants. To the extent either the FAQs on the website or the questions and answers to be addressed by the interactive voice responses system differ from the long-form notice, please so indicate and provide the contents.

**10. Deposition of Mr. Weisbrot:** The manufacturer defendants would like to conduct Mr. Weisbrot’s deposition to better understand the contents of his declaration, the Notice Plan, and the various approaches and tactics proposed. Please provide Mr. Weisbrot’s availability for deposition through May 22, 2023.

In addition to these requests, the manufacturer defendants are reviewing Plaintiffs’ proposed long-form and short-form notices (Exhibits B and C to Mr. Weisbrot’s Declaration), and will provide separate comments and proposed edits to the notice forms.

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Thank you for your attention to these matters. We look forward to your response.

Very truly yours,



Gregory E. Ostfeld

cc: PEC ([valpec@kirtlandpackard.com](mailto:valpec@kirtlandpackard.com))  
DEC ([decvalsartan@btlaw.com](mailto:decvalsartan@btlaw.com))